IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2007

CORAM:

THE HONOURABLE MR. JUSTICE P. JYOTHIMANI

W.P.No.35947 of 2007 &
M.P.No.1 of 2007

N.Senthilvelan Iyer ... Petitioner

.Vs.

1.The State of Tamil Nadu
Rep. by its Secretary,
Tamil Developemnt, Culture and Religious
Endowments Department,
Fort St. George, Chennai-600 009.

2.The Special Commissioner and Commissioner
of Hindu Religious and Charitable Endowments
Nungambakkam, Chennai-600 034.

3.The Joint Commissioner
Hindu Religious and Charitable Endowments Department
Salem.

4.Arulmighu Subramania Swamy Thirukoil
Rep. by its Thakkar/Executive Officer,
Pallakkapalayam Village & Post,
Thiruchengode Taluk,
Namakkal District-637 303.

5.The Tamil Nadu Electricity Board,
Rep. by its Executive Officer,
(Operation & Maintenance)
Sankari, Salem District. ... Respondents

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Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the respondent 1 to 4 to pay a reasonable compensation to the petitioner or to deposit a portion of the sale proceeds of the sale of the lands in Survey No.333/1 measuring 3.080 hectares in TD No.294 and in Survey No.333/2 measuring 2.95.5 at Arulmighu Subramania Swamy Thirukoil, Pallakkapalayam, Thiruchengodu Taluk, Namakkal District to the fifth respondent towards the maintenance of the fourth

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respondent temple and for paying the pay and other emoluments to the petitioner by considering and passing orders on the representation of the petitioner dated 05.09.2007.

For Petitioner : Mr.K.Selvaraj
For Respondents : M/s.T.Chandrasekaran
Special Government Pleader(HRCE)
M/s.S.N.Kirubanandhan for R5

O R D E R

The petitioner claims to be the hereditary Archagar of Arulmighu Subramania Swamy Thirukoil, Pallakkapalayam Village and Post, Thiruchengode Taluk, Namakkal District and according to him he has been serving as hereditary Archagar for many years and he has occupied the place situated below the hill while the temple is situated at the top of the hill.

2. The electricity board, the fifth respondent wanted to put up a sub-station in the place where the petitioner occupied. Admittedly, the property which was occupied by the petitioner was handed over to the temple and the temple in its turn has handed over the property to the electricity board. It is not in dispute that the electricity board which acquired the property has also paid compensation to the temple and the ownership of the temple is not disputed.

3. The only point raised by the learned counsel for the petitioner is that while it is true that the property belongs to the temple and the petitioner's case is that as hereditary archagar he has been living in that portion, which belongs to temple, in these years and in any event, the petitioner is entitled for salary as per Section 57 of the Hindu Religious and Endowment Act.

4. On the other hand, the learned counsel appearing for the respondents 1 to 4 would submit that when it is admitted that the property belonging to the temple and the temple has received the compensation in respect of the acquisition from the fifth respondent, there is no question of payment of compensation to the petitioner for the property to which he is not the owner. As far as the claim made by the petitioner regarding the salary to the petitioner, it is for the authorities to decide. The learned counsel would fairly submit if the representation dated 05.09.2007 contains the claim of the petitioner as salary for the service rendered by him, a direction can be given to the third respondent to consider that aspect and pass appropriate orders.

5. I have heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondents.

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6. Considering the factual position, wherein it is not disputed that the property absolutely belongs to the temple and the actual claim, which is raised by the petitioner during the course of argument, is that for payment of salary for the service rendered as hereditary archagar of the temple, the third respondent may be directed to consider the said aspect. In view of the same, making it clear, that the petitioner is not entitled for any property belonging to the temple or the compensation amount which has been paid to the temple, it is open to the third respondent to consider the representation of the petitioner dated 05.09.2007 so far it relates to the claims of the petitioner for salary for the service stated to have been rendered by him and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

jikr

To

1. The Secretary to the Government of TN,
   Tamil Developemnt, Culture and Religious
   Endowments Department, Fort St. George, Chennai-600 009.
2. The Special Commissioner and Commissioner
   of Hindu Religious and Charitable Endowments
   Nungambakkam, Chennai-600 034.
3. The Joint Commissioner
   Hindu Religious and Charitable Endowments Department
   Salem.
4. The Thakkar/Executive Officer,
   Arulmighu Subramania Swamy Thirukoil
   Pallakkapalayam Village & Post, Thiruchengode Taluk,
   Namakkal District-637 303.
5. The Executive Officer,
   The Tamil Nadu Electricity Board,
   (Operation & Maintenance), Sankari, Salem District.

1 cc To Mr.K.Selvaraj, Advocate, SR.70320.
1 cc To The Special Government Pleader (HR & CE), SR.70403.

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BV(CO)
RVL 05.12.2007

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